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CERTIFIED TRUE COPY

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 12-2-98 cm

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF DENTISTRY
DOCKET NO.

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

BURTON ROSEN, D.D.S

TO PRACTICE DENTISTRY IN THE STATE
OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the State Board of Dentistry (Board) upon the filing of an Amended Complaint seeking the suspension or revocation of the license of Burton Rosen, D.D.S., to practice dentistry in the State of New Jersey. Dr. Rosen did not file an answer to the Amended Complaint. The Amended Complaint alleged among other things that Dr. Rosen had been guilty of violations of the Dental Practice Act in the course of rendering dental treatment to the seven patients identified therein. It specifically alleged that with regard to four of these patients (C.H., T.M., N.C., and K.L.), his actions in submitting unauthorized charges on January 9, 1989, July 11, 1989, October 7, 1989, and in the month of August 1994 to a third party payor (Bank One) for dental treatment, which either had not been rendered or which had already been paid directly by the patient, constituted the use of dishonesty, fraud, deception and

misrepresentation in violation of N.J.S.A. 45:1-21 (b). It was also alleged that such actions by respondent constituted professional misconduct in violation of N.J.S.A. 45:1-21(e) and N.J.A.C. 13:30-8.10(a); and demonstrated a lack of the good moral character which is an ongoing requirement of licensure to practice dentistry in the State of New Jersey pursuant to N.J.S.A. 45:6-3. With regard to three of these patients (P.D., Sr., D.S., and L.T.), it was further alleged that during the period of July 18, 1989 through October 1994 respondent's actions in rendering dental treatment which deviated from the acceptable standards of care constituted repeated and/or gross malpractice in violation of N.J.S.A. 45:1-21(c) and (d). The Amended Complaint further alleged that on January 17, 1997, respondent, after entering a plea of guilty, was adjudged guilty in the United States District Court, Eastern District of Pennsylvania, of violation of 26 U.S.C. §7201 for his evasion of payment of income taxes for tax years 1978 through 1993, specifically alleging that such conduct is a violation of N.J.S.A. 45:1-21(b) and (e) by engaging in the use of dishonesty, fraud, deception, and misrepresentation as well as professional misconduct. Moreover, it was alleged that respondent has been convicted of a crime involving moral turpitude and/or crime relating adversely to the activity regulated by the Board of Dentistry in violation of N.J.S.A. 45:1-21(f).

Respondent admits that the crime for which he has been convicted involves a crime of moral turpitude and/or a crime relating adversely to the practice of dentistry within the meaning of N.J.S.A. 1-21(f) and the conduct which forms the basis of the conviction constitutes a failure to maintain good moral character, an ongoing requirement for

continued licensure pursuant to N.J.S.A. 45:6-3. The present matter constitutes a subsequent violation by respondent as the Board notes that respondent has been cited for violations of the Dental Practice Act as set forth in the Final Decision and Order entered on October 6, 1992, the Order entered on May 27, 1993, the Order entered on June 10, 1993 and the Uniform Penalty Letter acknowledged by respondent on September 24, 1996.

Respondent has submitted to the Board detailed information regarding the existence of a federal tax lien in excess of \$730,000 and the Board has reviewed information concerning his assets and liabilities in connection with a civil action filed by Bank One against Respondent. Based on an examination of the information provided and in consideration of Respondent's age, the Board has determined that it will forego imposition of statutory penalties, costs and other monetary relief.

Respondent and the Board agree now to resolve this matter without conducting a hearing in the formal disciplinary proceeding initiated by the Board. The Board finds that good cause exists and that the interests of the public are adequately protected by the entry of the within Order,

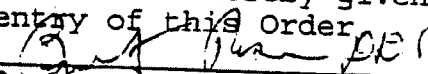
IT IS on this 2nd day of December ~~November~~, 1998,
ORDERED AND AGREED THAT:

1. Burton Rosen D.D.S., shall voluntarily surrender with prejudice, to be deemed a revocation, his license to practice dentistry in the State of New Jersey no later than November 6, 1998 subject to the provisions of N.J.S.A. 45:6-7. On or before November 6, 1998, respondent shall submit any and all wall certificates including, but

not limited to, the large embossed wall certificate, the D.E.A. registration, as well as his dentistry license/registration and C.D.S. registrations for all dental offices to the Board of Dentistry at 124 Halsey Street, 6th Floor, Newark, New Jersey 07102. Said voluntary surrender shall have the same force and effect as if his license had been revoked, and respondent shall cease and desist any practice of dentistry in this State on November 6, 1998. In addition, respondent shall observe the provisions of the directives for dentists whose licenses have been suspended or revoked, a copy of which is attached hereto and made a part hereof.

State Board of Dentistry


Abraham Samansky, D.D.S.
President

I have read and understand
the within Order and agree
to be bound by its terms.
Consent is hereby given to
entry of this Order

Burton Rosen, D.D.S.

DIRECTIVE REGARDING FUTURE ACTIVITIES
OF BOARD LICENSEE WHO HAS BEEN SUSPENDED/
REVOKED AND USE OF THE PROFESSIONAL PREMISES

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) Desist and refrain from the practice of dentistry in any form either as principal or employee of another licensee.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new licensee is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing patient record to the new licensee, or to the patient if no new licensee is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another licensee practices dentistry.
- 5) Desist and refrain from furnishing professional dental services, giving an opinion as to the practice of dentistry or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice dentistry or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice dentistry. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing.
- 6) Cease to use any stationery whereon such person's name appears as a dentist in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a

member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

(9) Report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

(10) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the Board in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.

8. The suppression, omission or concealment of any material fact under circumstances which a Board licensee knows or should know that the omission is improper or prohibits a prospective patient from making a full and informed judgment, on the basis of the information set forth in the advertisement.
9. Any print, language or format which directly or indirectly obscures a material fact.
- (d) The Board may require a licensee to substantiate the truthfulness of any assertion or representation set forth in an advertisement. Failure of a licensee to provide factual substantiation to support a representation or assertion shall be deemed professional misconduct.
- (e) A Board licensee shall not engage in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence. This subsection shall not prohibit the offering of services by a Board licensee to any bona fide representative of prospective patients including, but not limited to employers, labor union representatives, or insurance carriers.
- (f) Advertising making reference to setting forth a fee shall be limited to that which contains a fixed or a stated range of fees for a specifically described professional service.
 1. A licensee who advertises shall disclose all the relevant variables and considerations which are ordinarily included in such a service so that the fees will not be misunderstood. In the absence of such a disclosure, the stated fees shall be presumed to include everything ordinarily required for such a service. No additional charges shall be made for an advertised service unless the advertisement includes the following disclaimer: "Additional charges may be incurred for related services which may be required in individual cases". The disclaimer cannot be used for treatment where related services are ordinarily required.
- (g) Offers of discounts or fee reductions or free services shall indicate the advertiser's fixed or stated range of fees against which said discount is to be made and/or the value of the free service.
 1. The fixed or stated range of fees or value of free service shall mean and be established on the basis of the advertiser's most commonly charged fee for the stated service within the most recent 60 days prior to, or to be charged in the first 60 days following, the effective date of the advertisement.
 2. Offers of across-the-board discounts shall include a representative list of services and the fixed or stated range of fees against which discounts are to be made for these services. The list for general dentistry shall include a sampling of the advertiser's most frequently performed services from the areas of preventive, diagnostic, restorative, endodontic, periodontic, prosthodontic (fixed and removable) dentistry, and oral surgery.
 - i. "Across-the-board discounts" shall mean the offer of a specified discount on an undefined class of services or the offer of a specified discount to a defined class of patients (for example, "15 percent discount during April on all dental services" or "15 percent discount to senior citizens on all dental services").
 - ii. Example of Representative List of Services:

	Regular Fee	Discount Fee
Prophylaxis	\$	\$
Examination		
Complete X-Rays		
One Surface Filling		
Root Canal		
Crown		
Gingivectomy		
Complete Denture		
Simple Extraction		

3. Licensees who limit their practice to one or more areas of dentistry, as permitted by N.J.A.C. 13:30-8.4, shall in similar manner, as in (g)2 above, include a representative list of the most frequently performed services in the advertiser's office.

- (h) All licensee advertisements and public representations shall contain the name and address or telephone number of the licensee, professional service corporation or trade name under which the practice is conducted and shall also set forth the names of all licensees who are principals, partners, or officers in the professional service facility identified in the advertisement and/or public representation.
- (i) A licensee shall be presumed to have approved and shall be personally responsible for the form and contents of an advertisement which contains the licensee's name, office address, or telephone number. A licensee who employs or allows another to employ for his benefit an intermediary source or other agent in the course of advertising shall be personally responsible for the form and contents of said advertisement.
- (j) The effective period during which a fee or discount shall remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure and solely for the purposes of enforcement, the effective period shall be deemed to be 30 days from the date of the advertisement's initial publication.
- (k) A video or audio tape of every advertisement communicated by electronic media shall be retained by the licensee and made available for review upon request by the Board or its designee.
- (l) A licensee shall be required to keep a copy of all advertisements for a period of three years. All advertisements in the licensee's possession shall indicate the accurate date and place of publication.

Patient records

- (a) A contemporaneous, permanent patient record shall be prepared and maintained by a licensee for each person seeking or receiving dental services, regardless of whether any treatment is actually rendered or whether any fee is charged. Licensees also shall maintain records relating to charges made to patients and third party carriers for professional services. All treatment records, bills and claim forms shall accurately reflect the treatment or services rendered. Such records shall include, at a minimum:
 1. The name, address, and date of birth of the patient and, if a minor, the name of the parent or guardian;
 2. The patient's medical history;
 3. A record of results of a clinical examination where appropriate or an indication of the patient's chief complaint;
 4. A treatment plan where appropriate;
 5. The dates of each patient visit and a description of the treatment or services rendered at each visit;
 6. A description of all radiographs taken and diagnostic models made properly identified with the patient's name and date;
 7. The date and a description of any medications prescribed, dispensed or sold including the dosage or a copy of any written prescriptions;
 8. Complete financial data concerning the patient's account, including each amount billed to or received from the patient or third party payor and the date of each such bill and payment;
 9. Copies of all claim forms submitted to third party payors by a licensee or the licensee's agent or employee;
 10. Payment vouchers received from third party payors; and
 11. A record of any recommendations or referrals for treatment or consultation by a specialist, including those which were refused by the patient.
- (b) A patient record may be prepared and maintained on a personal or other computer provided that the licensee complies with all of the following requirements:
 1. The licensee shall use a computer system which contains an internal, permanently activated date recordation for all entries;
 2. The computer system shall have the capability to print on demand a hard copy of all current and historical data contained in each patient record file;
 3. The licensee shall identify each patient record by the patient's name and at least one other form of identification so that the record may be readily accessed;

4. The licensee shall post record entries at least once a month so that the entries are permanent and cannot be deleted or altered in any way. The licensee may subsequently make a new entry to indicate a correction to a permanent entry, provided that the new entry generates a permanent audit trail which is maintained in the patient record. The audit trail shall show the original entry, the revised entry, the date of the revised entry, the reason for the change and the identity of the person who authorized the change;
 5. The licensee shall prepare a back-up of all computerized patient records at least quarter-annually, except that if a licensee changes computer systems or software programs, the licensee shall prepare a back-up as of the last date when the system to be replaced shall be used.
 - i. For purposes of this section, "back-up" shall cover data files and the software programs required to retrieve those files including, but not limited to, the operating system and the program file.
 - ii. The back-ups shall be clearly dated and marked with an external label as "Back-up of computerized data as of (date)."
 - iii. The licensee shall maintain and store at least the last three quarterly back-ups onsite.
 - iv. The licensee shall maintain and store the fourth quarter (annual) back-up offsite; and
 6. The licensee shall provide to the Board upon request any back-up data maintained off premises, together with the following information:
 - i. The name of the computer operating system containing the patient record files and instructions on using such system;
 - ii. Current passwords;
 - iii. Previous passwords if required to access the system; and
 - iv. The name of contact person at the practice management company, if any, that provides technical support for the licensee's computer system.
- (c) Patient records, including all radiographs, shall be maintained for at least seven years from the date of the last entry, except that diagnostic models need be maintained only for three years from the date the model is made. Working models and preliminary models need not be kept.
- (d) Licensees shall provide patient records to the patient or the patient's authorized representative or another dentist in accordance with the following:
1. Upon receipt of a written request from a patient or the patient's authorized representative and within 14 days thereof, legible copies of the patient record including, if requested, duplicates of models and copies of radiographs, shall be furnished to the patient or an authorized representative or a dentist. "Authorized representative" means, but is not necessarily limited to, a person who has been designated by the patient or a court to exercise rights under this section. An authorized representative may be the patient's attorney or an agent of an insurance carrier with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement. If the patient is a minor, a parent or guardian who has custody (whether sole or joint) will be deemed to be an authorized representative.
 2. A licensee may require any unpaid balance for diagnostic services be paid prior to release of such records. Where treatment of a patient whose dental expenses are paid through Medicaid is discontinued by the dentist prior to completion of the treatment, no charge for the records shall be made or payment required.
 3. The licensee may charge a reasonable fee for the reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the cost of copying or duplicating. To the extent that the record is illegible or prepared in a language other than English, the licensee shall provide a typed transcription and/or translation at no additional cost to the patient.
- (e) Licensees shall maintain the confidentiality of patient records, except that:
1. The licensee shall release patient records as directed by the Board of Dentistry or the Office of the Attorney General, or by a Demand for Statement in Writing under Oath, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full patient names. To the extent that the record is illegible, the licensee, upon request, shall provide a typed transcription of the record. If the record is in

a language other than English, the licensee shall also provide a translation. All radiographs, models, and reports maintained by the licensee, including those prepared by other dentists, also shall be provided. The costs of producing such records shall be borne by the licensee.

2. The licensee, in the exercise of professional judgment and in the best interests of the patient (even absent the patient's request), may release pertinent information about the patient's treatment to another licensed health care professional who is providing or who has been asked to provide treatment to the patient, or whose expertise may assist the licensee in his or her rendition of professional services.
3. The licensee shall release information as required by law or regulation, such as the reporting of communicable diseases or gunshot wounds or suspected child abuse, etc., or when the patient's treatment is the subject of peer review.

(f) If a licensee ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than six months, the licensee or a designee shall:

1. Establish a procedure by which patients can obtain treatment records or agree to the transfer of those records to another licensee who is assuming the responsibilities of that practice;
2. If the practice will be unattended by another licensee, publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation;
3. File a notice of the established procedure for the retrieval of records with the Board of Dentistry;
4. Make reasonable efforts to directly notify any patient treated during the six months preceding the cessation of practice providing information concerning the established procedure for retrieval of records; and
5. Conspicuously post a notice on the premises of the procedure for the retrieval of records when possible.

(g) The provisions of this section shall not apply to situations where no patient-dentist relationship exists, such as where the professional services of a dentist are rendered at the behest of a third party for the purposes of examination and evaluation only or at the behest of the Board pursuant to N.J.A.C. 13:30-8.5 or in the course of any investigation.

13:30-8.8 Reporting of incidents or deaths

- (a) All licensees shall report to the main office of the State Board of Dentistry within seven days, in writing, any incident occurring in a dental office, clinic or any other dental facility which requires the removal of a patient to a hospital for observation or treatment.
- (b) All licensees shall likewise report any death which may be related to dental treatment, whether or not the death occurred in the dental facility.

13:30-8.9 Display of names; identifying badges

- (a) Every facility offering dental care to the public shall legibly display on all exterior signs or other means of exterior display only those names of the licensees who are responsible for the administration of said facility.
- (b) Every dental care facility wherein two or more dental licensees are engaged in providing dental care shall legibly display in its office, the names and professional status of all licensees associated with said facility.
- (c) Any licensee associated with such facility shall be required to wear an identifying badge indicating his or her name and professional status.

13:30-8.10 Dental insurance forms; professional misconduct

- (a) Professional misconduct shall be construed to include, but not be limited to, dishonesty, fraud, deception or misrepresentation by a licensee in submitting any claim, bill, or governmental assistance claim to a third party payor for dental services rendered to any patient.
- (b) In addition, it shall be professional misconduct for a licensee rendering dental services or procedures to a patient to submit to a third party payor any claim, bill, or governmental assistance claim which contains any of the following:
 1. Any treatment date which does not accurately reflect the date when the service and procedures were actually completed;

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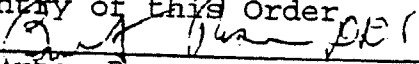
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State Board of Dentistry


Abraham Samansky, D.D.S.
President

I have read and understand
the within Order and agree
to be bound by its terms.
Consent is hereby given to
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DIRECTIVE REGARDING FUTURE ACTIVITIES
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- 4) Not occupy, share or use office space in which another licensee practices dentistry.
- 5) Desist and refrain from furnishing professional dental services, giving an opinion as to the practice of dentistry or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice dentistry or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice dentistry. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing.
- 6) Cease to use any stationery whereon such person's name appears as a dentist in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a

member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

(9) Report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

(10) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the Board in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.

8. The suppression, omission or concealment of any material fact under circumstances which a Board licensee knows or should know that the omission is improper or prohibits a prospective patient from making a full and informed judgment, on the basis of the information set forth in the advertisement.
9. Any print, language or format which directly or indirectly obscures a material fact.
- (d) The Board may require a licensee to substantiate the truthfulness of any assertion or representation set forth in an advertisement. Failure of a licensee to provide factual substantiation to support a representation or assertion shall be deemed professional misconduct.
- (e) A Board licensee shall not engage in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence. This subsection shall not prohibit the offering of services by a Board licensee to any bona fide representative of prospective patients including, but not limited to, employers, labor union representatives, or insurance carriers.
- (f) Advertising making reference to setting forth a fee shall be limited to that which contains a fixed or a stated range of fees for a specifically described professional service.
 1. A licensee who advertises shall disclose all the relevant variables and considerations which are ordinarily included in such a service so that the fees will not be misunderstood. In the absence of such a disclosure, the stated fees shall be presumed to include everything ordinarily required for such a service. No additional charge shall be made for an advertised service unless the advertisement includes the following disclaimer: "Additional charges may be incurred for related services which may be required in individual cases". The disclaimer cannot be used for treatment where related services are ordinarily required.
- (g) Offers of discounts or fee reductions or free services shall indicate the advertiser's fixed or stated range of fees against which said discount is to be made and/or the value of the free service.
 1. The fixed or stated range of fees or value of free service shall mean and be established on the basis of the advertiser's most commonly charged fee for the stated service within the most recent 60 days prior to, or to be charged in the first 60 days following, the effective date of the advertisement.
 2. Offers of across-the-board discounts shall include a representative list of services and the fixed or stated range of fees against which discounts are to be made for these services. The list for general dentistry shall include sampling of the advertiser's most frequently performed services from the areas of preventive, diagnostic, restorative, endodontic, periodontic, prosthodontic (fixed and removable) dentistry, and oral surgery.
 - i. "Across-the-board discounts" shall mean the offer of a specified discount on an undefined class of service or the offer of a specified discount to a defined class of patients (for example, "15 percent discount during April on all dental services" or "15 percent discount to senior citizens on all dental services").
 - ii. Example of Representative List of Services:

	Regular Fee	Discount Fee
Prophylaxis	\$	\$
Examination		
Complete X-Rays		
One Surface Filling		
Root Canal		
Crown		
Gingivectomy		
Complete Denture		
Simple Extraction		

3. Licensees who limit their practice to one or more areas of dentistry, as permitted by N.J.A.C. 13:30-8.4, shall in a similar manner, as in (g)2 above, include a representative list of the most frequently performed services in the advertiser's office.

- (h) All licensee advertisements and public representations shall contain the name and address or telephone number of the licensee, professional service corporation or trade name under which the practice is conducted and shall also set forth the names of all licensees who are principals, partners, or officers in the professional service facility identified in the advertisement and/or public representation.
- (i) A licensee shall be presumed to have approved and shall be personally responsible for the form and contents of an advertisement which contains the licensee's name, office address, or telephone number. A licensee who employs or allows another to employ for his benefit an intermediary source or other agent in the course of advertising shall be personally responsible for the form and contents of said advertisement.
- (j) The effective period during which a fee or discount shall remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure and solely for the purposes of enforcement, the effective period shall be deemed to be 30 days from the date of the advertisement's initial publication.
- (k) A video or audio tape of every advertisement communicated by electronic media shall be retained by the licensee and made available for review upon request by the Board or its designee.
- (l) A licensee shall be required to keep a copy of all advertisements for a period of three years. All advertisements in the licensee's possession shall indicate the accurate date and place of publication.

Patient records

- (a) A contemporaneous, permanent patient record shall be prepared and maintained by a licensee for each person seeking or receiving dental services, regardless of whether any treatment is actually rendered or whether any fee is charged. Licensees also shall maintain records relating to charges made to patients and third party carriers for professional services. All treatment records, bills and claim forms shall accurately reflect the treatment or services rendered. Such records shall include, at a minimum:
 - 1. The name, address, and date of birth of the patient and, if a minor, the name of the parent or guardian;
 - 2. The patient's medical history;
 - 3. A record of results of a clinical examination where appropriate or an indication of the patient's chief complaint;
 - 4. A treatment plan where appropriate;
 - 5. The dates of each patient visit and a description of the treatment or services rendered at each visit;
 - 6. A description of all radiographs taken and diagnostic models made properly identified with the patient's name and date;
 - 7. The date and a description of any medications prescribed, dispensed or sold including the dosage or a copy of any written prescriptions;
 - 8. Complete financial data concerning the patient's account, including each amount billed to or received from the patient or third party payor and the date of each such bill and payment;
 - 9. Copies of all claim forms submitted to third party payors by a licensee or the licensee's agent or employee;
 - 10. Payment vouchers received from third party payors; and
 - 11. A record of any recommendations or referrals for treatment or consultation by a specialist, including those which were refused by the patient.
- (b) A patient record may be prepared and maintained on a personal or other computer provided that the licensee complies with all of the following requirements:
 - 1. The licensee shall use a computer system which contains an internal, permanently activated date recordation for all entries;
 - 2. The computer system shall have the capability to print on demand a hard copy of all current and historical data contained in each patient record file;
 - 3. The licensee shall identify each patient record by the patient's name and at least one other form of identification so that the record may be readily accessed;

4. The licensee shall post record entries at least once a month so that the entries are permanent and cannot be deleted or altered in any way. The licensee may subsequently make a new entry to indicate a correction to a permanent entry, provided that the new entry generates a permanent audit trail which is maintained in the patient record. The audit trail shall show the original entry, the revised entry, the date of the revised entry, the reason for the change and the identity of the person who authorized the change;
 5. The licensee shall prepare a back-up of all computerized patient records at least quarter-annually, except that if a licensee changes computer systems or software programs, the licensee shall prepare a back-up as of the last date when the system to be replaced shall be used.
 - i. For purposes of this section, "back-up" shall cover data files and the software programs required to retrieve those files including, but not limited to, the operating system and the program file.
 - ii. The back-ups shall be clearly dated and marked with an external label as "Back-up of computerized data as of (date)."
 - iii. The licensee shall maintain and store at least the last three quarterly back-ups onsite.
 - iv. The licensee shall maintain and store the fourth quarter (annual) back-up offsite; and
 6. The licensee shall provide to the Board upon request any back-up data maintained off premises, together with the following information:
 - i. The name of the computer operating system containing the patient record files and instructions on using such system;
 - ii. Current passwords;
 - iii. Previous passwords if required to access the system; and
 - iv. The name of contact person at the practice management company, if any, that provides technical support for the licensee's computer system.
- (c) Patient records, including all radiographs, shall be maintained for at least seven years from the date of the last entry, except that diagnostic models need be maintained only for three years from the date the model is made. Working models and preliminary models need not be kept.
- (d) Licensees shall provide patient records to the patient or the patient's authorized representative or another dentist in accordance with the following:
1. Upon receipt of a written request from a patient or the patient's authorized representative and within 14 days thereof, legible copies of the patient record including, if requested, duplicates of models and copies of radiographs, shall be furnished to the patient or an authorized representative or a dentist. "Authorized representative" means, but is not necessarily limited to, a person who has been designated by the patient or a court to exercise rights under this section. An authorized representative may be the patient's attorney or an agent of an insurance carrier with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement. If the patient is a minor, a parent or guardian who has custody (whether sole or joint) will be deemed to be an authorized representative.
 2. A licensee may require any unpaid balance for diagnostic services be paid prior to release of such records. Where treatment of a patient whose dental expenses are paid through Medicaid is discontinued by the dentist prior to completion of the treatment, no charge for the records shall be made or payment required.
 3. The licensee may charge a reasonable fee for the reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the cost of copying or duplicating. To the extent that the record is illegible or prepared in a language other than English, the licensee shall provide a typed transcription and/or translation at no additional cost to the patient.
- (e) Licensees shall maintain the confidentiality of patient records, except that:
1. The licensee shall release patient records as directed by the Board of Dentistry or the Office of the Attorney General, or by a Demand for Statement in Writing under Oath, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full patient names. To the extent that the record is illegible, the licensee, upon request, shall provide a typed transcription of the record. If the record is in

a language other than English, the licensee shall also provide a translation. All radiographs, models, and reports maintained by the licensee, including those prepared by other dentists, also shall be provided. The costs of producing such records shall be borne by the licensee.

2. The licensee, in the exercise of professional judgment and in the best interests of the patient (even absent the patient's request), may release pertinent information about the patient's treatment to another licensed health care professional who is providing or who has been asked to provide treatment to the patient, or whose expertise may assist the licensee in his or her rendition of professional services.
3. The licensee shall release information as required by law or regulation, such as the reporting of communicable diseases or gunshot wounds or suspected child abuse, etc., or when the patient's treatment is the subject of peer review.

4. If a licensee ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than six months, the licensee or a designee shall:

1. Establish a procedure by which patients can obtain treatment records or agree to the transfer of those records to another licensee who is assuming the responsibilities of that practice;
 2. If the practice will be unattended by another licensee, publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation;
 3. File a notice of the established procedure for the retrieval of records with the Board of Dentistry;
 4. Make reasonable efforts to directly notify any patient treated during the six months preceding the cessation of practice providing information concerning the established procedure for retrieval of records; and
 5. Conspicuously post a notice on the premises of the procedure for the retrieval of records when possible.
- (g) The provisions of this section shall not apply to situations where no patient-dentist relationship exists, such as where the professional services of a dentist are rendered at the behest of a third party for the purposes of examination and evaluation only or at the behest of the Board pursuant to N.J.A.C. 13:30-8.5 or in the course of any investigation.

13:30-8.8 Reporting of incidents or deaths

- (a) All licensees shall report to the main office of the State Board of Dentistry within seven days, in writing, any incident occurring in a dental office, clinic or any other dental facility which requires the removal of a patient to a hospital for observation or treatment.
- (b) All licensees shall likewise report any death which may be related to dental treatment, whether or not the death occurred in the dental facility.

13:30-8.9 Display of names; identifying badges

- (a) Every facility offering dental care to the public shall legibly display on all exterior signs or other means of exterior display only those names of the licensees who are responsible for the administration of said facility.
- (b) Every dental care facility wherein two or more dental licensees are engaged in providing dental care shall legibly display in its office, the names and professional status of all licensees associated with said facility.
- (c) Any licensee associated with such facility shall be required to wear an identifying badge indicating his or her name and professional status.

13:30-8.10 Dental insurance forms; professional misconduct

- (a) Professional misconduct shall be construed to include, but not be limited to, dishonesty, fraud, deception or misrepresentation by a licensee in submitting any claim, bill, or governmental assistance claim to a third party payor for dental services rendered to any patient.
- (b) In addition, it shall be professional misconduct for a licensee rendering dental services or procedures to a patient to submit to a third party payor any claim, bill, or governmental assistance claim which contains any of the following:
 1. Any treatment date which does not accurately reflect the date when the service and procedures were actually completed;